

BEFORE THE FISH, WILDLIFE, AND PARKS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of )  
ARM 12.6.2203, 12.6.2205, 12.6.2210, )  
and 12.6.2215 pertaining to exotic )  
species )

CORRECTED NOTICE OF PUBLIC  
HEARING ON PROPOSED  
AMENDMENT

TO: All Concerned Persons

1. On May 10, 2007, the Fish, Wildlife, and Parks Commission (commission) published MAR Notice No. 12-325 regarding a public hearing on the proposed amendment of the above-stated rules at page 560 of the 2007 Montana Administrative Register, Issue No. 9.

2. The above-referenced notice published the place and day but omitted the time of the hearing. The purpose of this notice is to correct the Register omission. At 7:00 p.m. on May 30, 2007, the commission will hold a public hearing at the Department of Fish, Wildlife, and Parks, 1420 East Sixth Avenue, Helena, Montana. The time of the hearing was published May 7, 2007, on the department's web site and in the department's press releases.

3. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Beth Giddings, P.O. Box 200701, Helena, Montana 59620-0701; or e-mailed to FWPExotics@mt.gov and must be received no later than June 7, 2007.

/s/ M. Jeff Hagener  
M. Jeff Hagener  
Secretary, Fish, Wildlife and Parks  
Commission

/s/ Robert N. Lane  
Robert N. Lane  
Rule Reviewer

CERTIFIED TO THE SECRETARY OF STATE MAY 15, 2007

BEFORE THE FISH, WILDLIFE, AND PARKS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF PUBLIC HEARING ON  
12.6.2203, 12.6.2205, 12.6.2210, and ) PROPOSED AMENDMENT  
12.6.2215 pertaining to exotic species )

TO: All Concerned Persons

1. On May 30, 2007, the Fish, Wildlife, and Parks Commission (commission) will hold a public hearing at the Department of Fish, Wildlife, and Parks, 1420 East Sixth Avenue, Helena, Montana to consider the amendment of the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the commission no later than 5:00 p.m. on May 17, 2007, to advise us of the nature of the accommodation that you need. Please contact Eileen Ryce, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-2448; fax (406) 444-4952; or e-mail FWPExotics@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

12.6.2203 REQUIREMENTS FOR CARE AND HOUSING OF EXOTIC WILDLIFE HELD IN CAPTIVITY (1) remains the same.

(2) Specific conditions for the housing of exotic wildlife may be required by the department. Requirements ~~for mammals~~ will be consistent with those under 9 CFR, Ch. 1, Part 3 "Standards for Humane Handling, Care, Treatment and Transportation:" and consistent with ARM 12.6.1302.

(3) and (4) remain the same.

AUTH: 87-5-702, 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-705, 87-5-707, 87-5-709, 87-5-711, 87-5-712, MCA

12.6.2205 EXOTIC WILDLIFE: LIST OF NONCONTROLLED SPECIES

(1) The following mammals are classified as noncontrolled species:

(a) African pygmy hedgehog - *Atelerix albiventris* and *Atelerix algirus*;

~~(b)~~ (g) Wallaby (Bennets) - *Macropus rufogriseus*; and

~~(c)~~ (h) Wallaby (Tamar) - *Macropus eugenii*;

(d) remains the same but is renumbered (e).

(e) remains the same but is renumbered (f).

(f) remains the same but is renumbered (d).

~~(g)~~ (c) Jungle cat - *Felis chaus*; and

~~(h)~~ (b) Degu (bush-tailed rat) - *Octodon degus*;

(2) The following amphibians are classified as noncontrolled species:

- (a) Hyperoliidae family; and
- (b) Leptodactylidae family.
- (3) The following arachnids are classified as noncontrolled species:
  - (a) Emperor scorpion - *Pandinus imperator*; and
  - (b) Tanzanian redclaw scorpion - *Pandinus cavimanus*.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

12.6.2210 CONTROLLED SPECIES PERMITS (1) The department may authorize a permit for ~~to possession~~ possess sale, purchase, or exchange of a controlled species in Montana. ~~The department may also authorize a permit to sell, purchase, breed, or exchange a controlled species in Montana. A controlled species permit must require the permittee:~~

- ~~(a) to provide annual reports on forms provided by the department, unless the department has given written authorization for a different format concerning births, deaths, sales, and purchases of any controlled species;~~
- ~~(b) to provide a viable bio-security plan to control the spread of disease and an emergency response plan to protect emergency personnel and the species involved;~~
- ~~(c) to report the escape of any controlled species to the department within 24 hours of the escape and accept responsibility and liability for recapture costs;~~
- ~~(d) to report any injuries to humans inflicted by the controlled species to local public health officials within 24 hours of infliction of the injury;~~
- ~~(e) to report injuries inflicted by the exotic species on domestic animals to the Department of Livestock within 24 hours of infliction of the injury; and~~
- ~~(f) to report injuries inflicted by the exotic species on Montana wildlife to the department within 24 hours of infliction of the injury.~~

(a) The department shall assess a fee of \$25 to obtain or renew a permit to possess a controlled species. The permit must be renewed annually. Renewal is contingent upon submission of the annual fee plus submission of any required reporting of current inventory and any changes to inventory during the preceding year; and

(b) the department shall assess a fee of \$100 to obtain or renew a permit to sell, breed, or exchange a controlled species. The permit must be renewed annually. Renewal is contingent upon submission of the annual fee plus submission of any required annual reporting of current inventory and any changes to the inventory during the preceding year.

(2) A controlled species permit must require the permittee:

(a) to provide annual reports on forms provided by the department, unless the department has given written authorization for a different format concerning births, deaths, sales, and purchases of any controlled species;

(b) to provide a viable bio-security plan to control the spread of disease and an emergency response plan to protect emergency personnel and the species involved;

(c) to report the escape of any controlled species to the department within 24 hours of the escape and accept responsibility and liability for recapture costs;

(d) to report any injuries to humans inflicted by the controlled species to local public health officials within 24 hours of infliction of the injury;

(e) to report injuries inflicted by the exotic species on domestic animals to the Department of Livestock within 24 hours of infliction of the injury; and

(f) to report injuries inflicted by the exotic species on Montana wildlife to the department within 24 hours of infliction of the injury.

~~(2)~~(3) The department may require additional conditions on a permit to protect Montana's native wildlife and plant species, livestock, horticultural, forestry, agricultural production, and human health and safety. Permit conditions may include, but are not limited to, individual identification of animals. A person must comply with all permit conditions in order to receive or retain a permit. The department may suspend or cancel a permit if the permittee violates or fails to comply with a permit condition or is convicted of violating a federal or state law, or county or city ordinance associated with possession of the exotic wildlife species.

(3) remains the same but is renumbered (4).

(4) remains the same but is renumbered (5).

(5) remains the same but is renumbered (6).

(6) remains the same but is renumbered (7).

AUTH: 87-5-702, 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-705, 87-5-707, 87-5-709, 87-5-711, 87-5-712, MCA

12.6.2215 LIST OF PROHIBITED SPECIES (1) and (2) remain the same.

(3) The following fish are classified as prohibited species:

(a) Bighead carp - *Hypophthalmichthys nobilis*;

(b) remains the same.

(c) Eurasian Ruffe - *Gymnocephalus cernuus*;

(c) remains the same but is renumbered (d).

(e) Round goby - *Neogobius melanostomus*;

(d) remains the same but is renumbered (f).

(e) remains the same but is renumbered (g).

~~(f)~~ (j) Zander (European pikeperch) - *Sander lucioperca*; and

~~(g)~~ (h) Walking catfish - *Clarias batrachus*;

(i) White perch - *Morone Americana*; and

(4) The following mammals are classified as prohibited species:

(a) remains the same but is renumbered (b).

(b) remains the same but is renumbered (g).

~~(c)~~ (i) Virginia opossum - *Didelphis virginiana*;

(d) remains the same but is renumbered (a).

(e) remains the same but is renumbered (h).

~~(f)~~ (c) Primates in the family Cebidae (new world primates);

(d) primates in the family Cercopithecidae (old world monkeys);

(e) primates in the family Hylobatidae (gibbons);

(f) primates in the family Pongidae (apes);

(5) The following mollusks are classified as prohibited species:

(a) New Zealand mudsnail - *Potamopyrgus antipodarum*; and

(b) Quagga mussel - *Dreissena bugensis*; and

- (b) remains the same but is renumbered (c).
- (6) The following reptiles are classified as prohibited:
  - (a) African rock python - *Python sebae*;
  - (b) Alligatoridae family;
  - (c) Amethystine python - *Morelia amethystina*;
  - (h) Crocodylidae family;
  - (i) Green Anaconda - *Eunectes marinus*;
  - (j) Indian python (including the Burmese python) - *Python molurus*;
  - (a) remains the same but is renumbered (d).
  - (b) remains the same but is renumbered (e).
  - (c) remains the same but is renumbered (f).
  - (d) remains the same but is renumbered (g).
  - (e) remains the same but is renumbered (k).
  - ~~(f)(l)~~ Mambas (all species in family Elapidae); and
  - ~~(g)(m)~~ Pit vipers and true vipers (all species in family Viperidae except species indigenous to Montana); and
  - (n) Reticulated python - *Python reticulatus*.

AUTH: 87-5-704, 87-5-705, 87-5-712, MCA

IMP: 87-5-707, 87-5-708, 87-5-711, 87-5-712, MCA

4. The 2003 Legislature passed SB 442 granting the commission authority to adopt rules regarding the importation, possession, and sale of exotic wildlife through the operation of a "classification review committee" (committee). The intent of SB 442 was to protect Montana's native wildlife and plant species, livestock, horticultural, forestry, agricultural production, and human health and safety from the harmful effects of unregulated exotic animals.

The function of the committee created by SB 442 is to recommend classification of individual exotic animal species to the commission. The committee may recommend that a species be classified as noncontrolled, controlled, or prohibited for importation, possession, and sale. If the commission approves the committee's recommendations, the commission begins administrative rulemaking to incorporate the recommendations into these classification lists: noncontrolled species, controlled species, and prohibited species.

The purpose of this rulemaking is to implement the recommendations of the committee and to increase the clarity of the existing rule through minor editing changes.

The committee recommended the addition of two species and two families of exotic wildlife to the list of noncontrolled species. These additions made revisions to ARM 12.6.2205 necessary. After evaluating these species and finding that potential impacts of private ownership would be minimal, the committee recommended classification of these species as noncontrolled.

Revisions to ARM 12.6.2210 provide for fees associated with controlled species permits. The committee recommended that a \$25 fee be required for a controlled species permit when breeding and/or sale of the controlled species will not occur. When breeding and/or sale is intended the required fee has been recommended to be \$100. The recommended fees are intended to cover the administrative costs of issuing permits, reviewing permit applications and annual reports, and supplying report forms. The fee associated with the breeding and/or sale of exotic wildlife is higher because of the increased costs associated in administering those permits.

Revisions to ARM 12.6.2215 add nine species of exotic wildlife and five families to the list of prohibited species not allowed for personal possession as pets in Montana. The classification of these exotic wildlife species as prohibited for personal possession as pets was recommended by the committee because the species 1) would not be readily subject to control by humans while in captivity, 2) would pose a substantial threat to native wildlife and plants or agricultural production if released from captivity, or 3) would pose a risk to human health or safety, livestock, or native wildlife through disease transmission, hybridization, or ecological or environmental damage.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Beth Giddings, P.O. Box 200701, Helena, Montana 59620-0701; or e-mailed to FWPExotics@mt.gov and must be received no later than June 7, 2007.

6. Eileen Ryce or another hearings officer appointed by the department has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request which includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ Steve Doherty  
Steve Doherty  
Chairman, Fish, Wildlife and  
Parks Commission

/s/ Bill Schenk  
Bill Schenk  
Rule Reviewer

Certified to the Secretary of State April 30, 2007